

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: Squad #10	CCRB Case #: 201801344	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/15/2017 11:00 PM, Sunday, 04/16/2017	Location of Incident: § 87(2)(b)	Precinct: 33	18 Mo. SOL 10/15/2018	EO SOL 10/15/2018	
Date/Time CV Reported Tue, 02/20/2018 10:14 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/20/2018 10:14 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Steven Clarke	2515	955824	033 PCT
2. POM Yoan Deleon	15003	960432	033 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Steven Clarke	Abuse: Police Officer Steven Clarke entered § 87(2)(b) [REDACTED], in Manhattan.	[REDACTED]
B.POM Yoan Deleon	Abuse: Police Officer Yoan Deleon entered § 87(2)(b) [REDACTED], in Manhattan.	[REDACTED]
C.POM Steven Clarke	Abuse: Police Officer Steven Clarke searched § 87(2)(b) [REDACTED] in Manhattan.	[REDACTED]

Case Summary

On February 20, 2018, § 87(2)(b) filed the following complaint with the CCRB. On April 16, 2017, at approximately 11:00 p.m., § 87(2)(b) was in his home at § 87(2)(b), in Manhattan when PO Steven Clarke and PO Yoan Deleon of the 33rd Precinct came to his door. PO Clarke and PO Deleon entered the apartment (**Allegation A and B: Abuse of Authority** – § 87(2)(g) PO Clarke picked up a box cutter from § 87(2)(b)'s window ledge (**Allegation C: Abuse of Authority** – § 87(2)(g) § 87(2)(b) was arrested for criminal possession of a weapon and menacing (**Board Review 1**).

There was no video of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Steven Clarke entered § 87(2)(b), in Manhattan.

Allegation (B) Abuse of Authority: Police Officer Yoan Deleon entered § 87(2)(b) – § 87(2)(b), in Manhattan.

§ 87(2)(b) alleged that only PO Clarke entered his apartment while PO Clarke and PO Deleon both stated that they both entered the apartment. § 87(2)(g)

On April 12, 2017, § 87(2)(b) went to the home of his neighbor § 87(2)(b) to request that she repay a \$20 loan. This was the fourth time that § 87(2)(b) asked § 87(2)(b) to repay the loan because she had refused. § 87(2)(b) allegedly attacked § 87(2)(b) with a hammer. § 87(2)(b) stated that he kicked § 87(2)(b) in the arms and fled. § 87(2)(b) did not report the attack to police. On April 12, 2017, § 87(2)(b) filed a criminal complaint at the 33rd Precinct stationhouse alleging that § 87(2)(b) banged on her door and waved a blue box cutter in the area of her face and chest, causing her to fear for her safety (**Board Review 2**).

On April 15, 2017, § 87(2)(b) was home alone. His apartment is a one room studio apartment. § 87(2)(b) left his apartment door slightly ajar due to the heat. There was a knock on the door and § 87(2)(b) opened the door to see PO Clarke and PO Deleon standing there in uniform. § 87(2)(b) stated he asked the officers, “Can I help you officers?” According to § 87(2)(b) PO Clarke stepped inside the apartment without asking for permission, and without § 87(2)(b)'s consent. According to § 87(2)(b) PO Deleon remained outside of the apartment (**Board Review 3**).

According to both PO Clarke (**Board Review 4**) and PO Deleon (**Board Review 5**), they came to § 87(2)(b)'s apartment for the express purpose of investigating the UF-61 complaint filed by § 87(2)(b). The UF-61 contained § 87(2)(b)'s apartment number and § 87(2)(b)'s name. It also indicated that § 87(2)(b) allegedly used a blue box cutter to menace § 87(2)(b). PO Clarke confirmed that § 87(2)(b)'s door was already slightly ajar, while PO Deleon did not recall that. According to both PO Clarke and PO Deleon, they knocked on the door and § 87(2)(b) answered. PO Deleon stated that § 87(2)(b) had bloodshot, watery

eyes and smelled of alcohol. PO Deleon stated that one of the officers asked § 87(2)(b) “How are you? You’ve been drinking?” § 87(2)(b) replied that he had been drinking and then stated, “Come in. Come in.” PO Clarke did not recall what he or PO Deleon said to § 87(2)(b) by way of introduction, and he did not mention any signs of § 87(2)(b) being intoxicated. PO Clarke stated that after announcing themselves, § 87(2)(b) told them, “Come on in.” Both officers denied asking § 87(2)(b) for permission to enter the apartment. Both officers also stated that § 87(2)(b) was very friendly towards them. Both officers stated that upon being invited in, they stepped inside the small one room studio apartment and stood near the front door.

§ 87(2)(g)

Allegation C – Abuse of Authority: Police Officer Steven Clarke searched § 87(2)(b) in Manhattan.

It is undisputed that PO Clarke picked up a blue box cutter in plain sight inside § 87(2)(b) s apartment.

§ 87(2)(b) stated that his apartment is a small one room studio. § 87(2)(b) had a blue box cutter sitting on the window ledge across the room from the apartment door. § 87(2)(b) stated that anyone standing at the open door would be able to easily see the box cutter from the front door. § 87(2)(b) stated that after he opened the door and asked the officers how he could help them, PO Clarke immediately walked directly to the window ledge and picked up the blue box cutter and stated, “This is what I need.” PO Clarke then told § 87(2)(b) “You have to come with us.” § 87(2)(b) stated that the officers allowed him to lock his door and then handcuffed him outside of his apartment before taking him to the 33rd Precinct stationhouse. The blue box cutter was vouchered as arrest evidence (**Board Review 6**).

PO Clarke and PO Deleon both stated that after they entered the apartment, they asked § 87(2)(b) about the incident with § 87(2)(b). PO Clarke stated that § 87(2)(b) denied having any confrontation with § 87(2)(b) but stated that she did owe him money. PO Deleon did not recall the content of this conversation. PO Clarke and PO Deleon both stated that PO Clarke first observed the blue box cutter located on the window ledge and that it was in plain view. Both officers stated that the description of the weapon in § 87(2)(b) complaint was the same as the blue box cutter in § 87(2)(b) s apartment. Both officers stated that PO Clarke retrieved the box cutter. Afterwards, the officers placed § 87(2)(b) under arrest.

The 'plain view' exception authorizes seizure of illegal or evidentiary items visible to a police officer whose access to the object has some prior Fourth Amendment justification and who has probable cause to suspect that the item is connected with criminal activity. *United States v. Gamble*, 388 F.3d 74, 2004 U.S. App. LEXIS 22544 (**Board Review 7**)

§ 87(2)(g) [REDACTED]

Civilian and Officer CCRB Histories

- This was the first complaint filed by § 87(2)(b) [REDACTED] § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- PO Clarke has had three other complaints involving four allegations made against him in his four year tenure at the NYPD. None of the allegations have been substantiated [REDACTED]
§ 87(2)(g) [REDACTED]
- PO Deleon has had one other complaint involving six allegations made against him in his two year tenure at the NYPD. None of the allegations have been substantiated § 87(2)(g) [REDACTED]
[REDACTED]

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- According to the Office of the New York City Comptroller, there has been no notices of claim filed regarding this incident.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 10

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____

Signature

Print Title & Name

Date

Page 5

CCRB Case # 201801344